



BUCHALTER NEMER
ROBERT E. IZMIRIAN (SBN: 53805)
MIA S. BLACKLER (SBN: 188112)
CRAIG C. CHIANG (SBN: 209601)

The following constitutes
the order of the court. Signed October 18, 2013

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M. Elaine Hammond

M. Elaine Hammond
U.S. Bankruptcy Judge

Attorneys for Chapter 11 Trustee
KYLE EVERETT

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

In re

PACIFIC THOMAS CORPORATION, dba
PACIFIC THOMAS CAPITAL, dba
SAFE STORAGE,

Debtor.

Case No. 12-46534 MEH

Chapter 11

**TEMPORARY RESTRAINING ORDER
AND ORDER TO SHOW CAUSE RE
ISSUANCE OF PRELIMINARY
INJUNCTION**

Date: October 17, 2013
Time: 10:30 a.m.
Place: 1300 Clay Street, Courtroom 215
Oakland, California
Judge: Hon. M. Elaine Hammond

1 Having read and considered the *Ex Parte* Application for Issuance of Temporary
2 Restraining Order and Order to Show Cause re Preliminary Injunction; Memorandum of Points
3 and Authorities; Declaration of Tyler Julian in Support Thereof; and Declaration of Craig Chiang
4 in Support Thereof, filed by Kyle Everett, the duly appointed Chapter 11 Trustee (the “Trustee”),
5 considered the parties’ oral arguments, and good cause appearing therefor, **IT IS HEREBY**
6 **ORDERED** as follows:

- 7 1. From and after the date of this Order, one hundred percent of all rents or other income
8 of any kind received or to be received as a result of the use or rent of or business
9 activity upon all property of the estate of Pacific Thomas Corporation dba Pacific
10 Thomas Capital dba Safe Storage, including, but not limited to, those real properties
11 and improvements commonly described as 2615 East 12th Street, 1113-1115 29th
12 Avenue, 2783 East 12th Street, 2801 East 12th Street, 1111 29th Avenue, 29th Avenue
13 to Derby Avenue parallel to and interior of East 12th Street, and 23rd Avenue at East
14 12th Street, in Oakland, California (collectively, the “Property”), including, without
15 limitation all self-storage fees, deposits or rents, however described (collectively, the
16 “Rents”) shall be collected from all tenants directly by and held under the exclusive
17 control of the Trustee in a segregated account (the “Segregated Account”). Any Rents
18 coming into the possession of Randall Whitney, Pacific Trading Ventures, Pacific
19 Trading Ventures, Ltd., and Jill Worsley, and/or their respective officers, agents,
20 representatives, servants, employees and all other persons who are in active concert or
21 participation with them (collectively, the “Restrained Parties”), whether as a result of
22 any claim of leasehold or management contract, shall be turned over to the Trustee in
23 the original form received on a daily basis, without deduction or offset of any kind or
24 nature;
- 25 2. From the Rents received, the Trustee is authorized to pay all Property-related expenses
26 necessary or proper to the preservation and management of the Property, including,
27 without limitation, making adequate protection payments to lenders secured by the
28 Property in accordance with approved cash collateral budgets. Any Rents remaining

1 after such expenditures shall remain in the Segregated Account pending further order
2 of this Court. The Court retains jurisdiction to determine any disputes regarding the
3 appropriateness of any expenditures; and

- 4 3. The Trustee is authorized to engage an independent management company to review
5 the books and records of the Property, including the books and records of Pacific
6 Trading Ventures ("PTV") for the period when it acted as manager of the Property, as
7 well as provide ongoing oversight of the operations and management to maximize the
8 value of the Property. The Trustee's management company shall have unfettered
9 access to current and historical records and storage operations systems on the Property
10 and its management. The Restrained Parties shall provide the Trustee's management
11 company with continuous access to the current and historical books, records, systems,
12 financial dealings and management issues related to the Property.

13 **IT IS FURTHER ORDERED THAT**, pending further order of this Court, Restrained
14 Parties are restrained from:

- 15 A. Interfering with the Trustee, his agents, representatives, broker, management company
16 and guests, accessing the Property. The Trustee will maintain a record of guests who
17 visit the Property and are accompanied by the Trustee or his agent; and
18 B. Preventing the Trustee, his agents, representatives, broker, management company and
19 guests, from having continuous access to the current and historical books, records and
20 storage operations systems systems on and for the Property, as well as financial
21 dealings and management issues related to the Property.

22 This temporary restraining order shall remain in full force and effect for fourteen days
23 from the date hereof or until 1:00 p.m. on November 4, 2013, unless sooner modified or dissolved
24 by this Court.

25 Pursuant to Federal Rule of Bankruptcy Procedure 7065, the Trustee need not post
26 security pursuant to FRCP Rule 65(c).

27 **ORDER TO SHOW CAUSE**

28 On November 4, 2013, at 1:00 p.m., the Court will conduct a hearing on an order to show

1 cause ("OSC") why a preliminary injunction should not issue and remain in effect to restrain the
2 above Restrained Parties as set forth above, or as may be modified at the hearing on the
3 preliminary injunction.

4 Nothing in this Order is designed to modify any prior court order issued in this matter or
5 the related adversary proceeding brought by the Trustee, including but not limited to the Debtor
6 and PTV's obligations to turn over rents, records and information to the Trustee;

7 Approved as to form:

8 David M. Sternberg & Associates

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10 By: /s/ David M. Sternberg

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13 Randall Whitney

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15 IT IS SO ORDERED.

16 **END OF ORDER**
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